

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

<b>CLAY DAVIS, Plaintiff</b>	§	
	§	
<b>VS.</b>	§	<b>CIVIL ACTION NO. 2:18-cv-00128</b>
	§	<b>JURY DEMAND</b>
<b>INTERNATIONAL PAPER COMPANY,</b>	§	
<b>MANCEL SPRAYBERRY,</b>	§	
<b>JOHN SPRAYBERRY d/b/a</b>	§	
<b>JWK LOGGING AND PINELAND</b>	§	
<b>FORESTRY SERVICES, LLC</b>	§	
<b>Defendants</b>	§	

**PLAINTIFF’S FIRST AMENDED ORIGINAL COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Clay Davis, Plaintiff, and files this his First Amended Original Complaint against Defendants, International Paper Company, Mancel Sprayberry, John Sprayberry d/b/a JWK Logging and Pineland Forestry Services, LLC, and for such cause of action would respectfully show the Court as follows:

**PARTIES**

**I.**

Plaintiff, Clay Davis, resides in Doddridge, Arkansas and is a citizen of the State of Arkansas.

II.

Defendant, International Paper Company, is a corporation doing business in the State of Texas. Defendant, International Paper Company, is a New York corporation with its principal place of business in the State of Tennessee. Defendant, International Paper Company, has already answered herein and no further service is necessary at this time.

III.

Defendant, Mancel Sprayberry, is an individual residing in Atlanta, Texas. Defendant Sprayberry is a citizen of the State of Texas. Defendant Sprayberry has already answered herein and no further service is necessary at this time.

IV.

Defendant, John Sprayberry d/b/a JWK Logging, is an individual doing business in the State of Texas. Defendant, John Sprayberry, is a citizen of the State of Texas. Defendant, John Sprayberry, may be served herein by service upon him at 61 Good Exchange Lane, McLeod, Texas 75565.

V.

Defendant, Pineland Forestry Services, LLC, is a Texas corporation with its principal place of business in the State of Texas. Defendant, Pineland Forestry Services, LLC, may be served herein by service upon its registered agent, Scotty Prince, 844 CR 4458, Bivins, Texas 75555.

**JURISDICTION**

VI.

Jurisdiction is conferred upon this Court by 28 U.S.C. §1332 relating to diversity

jurisdiction. This is an action between a citizen of the State of Arkansas, Plaintiff Davis, and Defendant Mancel Sprayberry, a citizen of the State of Texas, Defendant, John Sprayberry, a citizen of the State of Texas, Defendant, International Paper, incorporated in the state of New York with its principal place of business in the State of Tennessee, and Defendant, Pineland Forestry Services, LLC, incorporated in the State of Texas with its principal place of business in the State of Texas. There is complete diversity of citizenship. The amount in controversy exceeds \$75,000.00.

## **VENUE**

### **VII.**

Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. §1391(b)(1) and (2). A substantial part of the events or omissions giving rise to the claims which are the subject of this suit occurred in the Eastern District of Texas, Marshall Division. This cause arises out of a motor vehicle collision which occurred in Cass County, Texas. Defendant, Mancel Sprayberry, resides in Cass County, Texas. Defendant, John Sprayberry, resides in Cass County, Texas. Accordingly, venue is proper in the Marshall Division of the United States District Court for the Eastern District of Texas.

## **FACTUAL BASIS FOR COMPLAINT**

### **VIII.**

On November 30, 2017, Plaintiff, Clay Davis, was riding on a motorcycle and proceeding west on FM 3129 in Cass County, Texas. Defendant, Mancel Sprayberry, was driving a logging truck which was proceeding east on FM 3129. Without warning, Defendant, Mancel Sprayberry, turned left into the path of the oncoming motorcycle ridden by Plaintiff Davis. Defendant,

Mancel Sprayberry, was delivering logs to a plant operated by Defendant, International Paper. Plaintiff Davis collided with the right rear portion of the trailer being pulled by the truck driven by Defendant, Mancel Sprayberry.

VIII.

The hereinabove described motor vehicle collision was proximately caused by the negligence of Defendant, Mancel Sprayberry, including, but not limited to, failing to yield right-of-way, failing to keep a proper lookout, failing to make timely application of his brakes and making a lane change when it was clearly unsafe to do so.

IX.

At all times material hereto, Defendant, Mancel Sprayberry, was a statutory employee of Defendants, International Paper, Pineland Forestry Services, LLC, and John Sprayberry d/b/a JWK Logging, pursuant to the Federal Motor Carrier Safety Regulations, including, but not limited to, 49 CFR §390.5.

X.

At all times material hereto, Defendant, Mancel Sprayberry, was driving the logging truck while on a mission for the benefit of Defendants, International Paper, Pineland Forestry Services, LLC, and John Sprayberry d/b/a JWK Logging, and subject to the control of Defendants, International Paper, Pineland Forestry Services, LLC, and John Sprayberry d/b/a JWK Logging, as to the details of such mission.

XI.

Accordingly, Defendants, International Paper, Pineland Forestry Services, LLC, and John Sprayberry d/b/a JWK Logging, are vicariously and derivatively liable for the negligent acts

and/or omissions of Defendant, Mancel Sprayberry.

XII.

As a result of the hereinabove described motor vehicle collision, Plaintiff, Clay Davis, sustained severe, permanent injuries and damages, not only in the past but in reasonable probability in the future which include, but are not limited to, physical pain, mental anguish, physical impairment, physical disfigurement, loss of earning capacity and reasonable and necessary health care expenses. The actual damages sustained by Plaintiff Davis were proximately caused by the negligence of Defendants and Defendants, International Paper, Pineland Forestry Services, LLC, and John Sprayberry d/b/a JWK Logging, are vicariously and derivatively liable for the negligence of Defendant, Mancel Sprayberry. The actual damages sustained by Plaintiff Davis far exceed the jurisdictional amount of \$75,000.00.

XIII.

Plaintiff is further entitled to recover prejudgment interest for which he seeks recovery.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Clay Davis, prays that Defendants, Mancel Sprayberry, International Paper Company, Pineland Forestry Services, LLC, and John Sprayberry d/b/a JWK Logging, be cited to appear herein and upon final trial hereof that Plaintiff have judgment against Defendants, jointly and severally, for his actual damages, prejudgment interest, post-judgment interest, costs of Court and such other and further relief to which Plaintiff may show himself justly entitled.

Respectfully submitted,

BY: /s/ Roger W. Anderson  
ROGER W. ANDERSON  
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ATTORNEY-IN-CHARGE FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument was forwarded to all counsel of record in accordance with the Federal Rules of Civil Procedure on this 28<sup>th</sup> day of June, 2018.

/s/ Roger W. Anderson  
ROGER W. ANDERSON